

ENTERED

February 07, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

GABRIELA GONZALES-BALDERAS,

Petitioner,

VS.

THE UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO. 1:21-CV-191

CRIM. ACTION NO. 1:20-CR-256-1

ORDER

On November 4, 2021, Gabriela Gonzalez-Balderas filed a Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1), alleging that her defense counsel was ineffective for failing to secure a sentencing reduction through the safety valve or a § 5K1.1 agreement with the Government.

A United States Magistrate Judge recommends that the petition be denied as factually and legally meritless, noting that when sentenced, Gonzalez received both the safety valve and the benefits of a § 5K1.1 agreement with the Government. (R&R, Doc. 6) No party filed objections to the Report and Recommendation, and the Court finds no plain error within it.

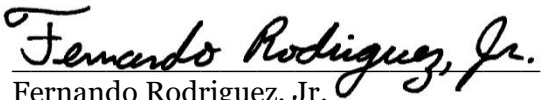
As a result, the Court **ADOPTS** the Report and Recommendation (Doc. 6). It is:

ORDERED that the Petitioner Gabriela Gonzalez-Balderas's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1) is **DENIED**.

In addition, the Court finds that no outstanding issue would be debatable among jurists of reason, and that Gonzalez fails to make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** the request for a Certificate of Appealability.

The Clerk of Court is directed to close this matter.

Signed on February 7, 2022.


Fernando Rodriguez, Jr.
United States District Judge